IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.4555 of 2006

V. Mathew, Director — Petitioner
Vs.
Walaitilal Kohil — Respondent

Mr.A.Y.Sakhare, Sr.Counslel i/b YKS Legal for petitioner.

CORAM: B.H.MARLAPALLE, J.

April 19, 2007.

P.C.

. Heard Mr.Sakhare, the learned Senior Counsel.

RAD Suit No.1652 of 1983 was dismissed on 2/4/1997 i.e. after fourteen years of its filing and on the ground that the learned Advocates as well as the respective parties were absent when the suit was called out for hearing. Seven years later i.e. on 25/2/2004 Misc. Notice No. 123 of 2004 was taken out praying for setting aside the order passed on 2/4/1997 and the said notice was rejected on 17/8/2004. This order was challenged in Appal No.849 of 2004 before the Division Bench of the Small Causes Court and the appeal was dismissed on 5/4/2006 and hence this petition under Article 227 of the Constitution.

. The chronology of events noted above shows

that the suit filed in the year 1983 was dismissed in April 1997 i.e. about ten years ago and, therefore, there is no reason to entertain this petition more so when the restoration application was itself made after about seven years. Further, if there is any fresh cause of action available to the plaintiffs to initiate fresh proceedings as permissible in law, failure in this petition need not come in the way of the plaintiff.

. Hence the petition is rejected with liberty to the petitioner as is available in law.

(B.H.MARL